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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

In re MARIO G., a Person Coming Under the  
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

MARIO G.,

Defendant and Appellant.

A138490

(Contra Costa County  
Super. Ct. No. J10-00679)

Defendant Mario G. appeals from the dispositional order following a contested probation violation hearing. His counsel raises no issues and asks this court for an independent review of the record as required by *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). In accordance with *Wende* and *Anders v. California* (1967) 386 U.S. 738, defendant was informed of his right to file a supplemental brief, which he has not done. Upon independent review of the record, we conclude no arguable issues are presented for review and affirm the dispositional order.

**BACKGROUND**

On June 2, 2010, a wardship petition pursuant to Welfare and Institutions Code section 602, subdivision (a) was filed, alleging that defendant committed a misdemeanor

violation of former Penal Code section 12020, subdivision (a)(4),<sup>1</sup> carrying a concealed dirk or dagger, and one misdemeanor violation of Health and Safety Code section 11357, subdivision (b), possession of 28.5 grams or less of marijuana. Subsequently, the wardship petition was amended to add a felony violation of Health and Safety Code section 11359, possessing marijuana for sale, and a felony violation of Health and Safety Code section 11357, subdivision (c), possessing more than 28.5 grams of marijuana.

On September 18, 2012, the court granted the People's motion to amend the two felony violations to misdemeanors. After being advised of the rights he was waiving, defendant pleaded no contest to a misdemeanor violation of former Penal Code section 12020, subdivision (a)(4), and a misdemeanor violation of violating Health and Safety Code section 11357, subdivision (c). The two other counts were dismissed.

On October 16, 2012, the juvenile court held a dispositional hearing. The court adjudged defendant a ward of the court and imposed a series of probation conditions, including a weapons ban, an order not to use or possess illegal drugs or alcohol, a standard search condition, and a drug-testing requirement. Probation was to expire in April 2013, on defendant's 20th birthday.

On March 15, 2013, the probation department filed a notice pursuant to Welfare and Institutions Code section 777, advising defendant that a hearing was scheduled regarding two alleged probation violations. According to the notice, defendant tested positive for THC on December 10, 2012, and was cited for possessing a loaded firearm on December 9, 2012 (Pen. Code, § 25850, subd. (a)).<sup>2</sup>

The hearing on defendant's probation violations was on April 3, 2013. Defendant moved to suppress the evidence of the firearm.

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<sup>1</sup> Former Penal Code section 12020, subdivision (a)(4) is now Penal Code section 21310.

<sup>2</sup> There was also an adult proceeding related to the possession of a loaded firearm.

Officer Chunliam Saechao testified that another officer and he were in a marked police car and conducting patrols in a particular area in the City of Pittsburg where there had been recent gang shootings. At 6:40 p.m., they saw three people standing around a driveway at a home on East Trident Drive. He stated that he decided to contact them and ask them whether they had heard or seen anything.

The officers drove by and then made a U-turn and drove back to the driveway where the three people were standing. The officers did not activate the lights or siren on the car. They parked the police car in the driveway directly behind defendant's car. The officers walked up to the three people and asked them what they were doing. Saechao testified that he talked to the three about recent shootings and gang activity, although he did not write that in his police report. He stated that he never talked to the three about a noise complaint. Saechao asked whether any of them were on probation, and defendant responded that he was. Saechao asked defendant if he could search him and defendant consented to a search. Saechao found a loaded firearm in defendant's jacket. Defendant was arrested.

Joel M. also testified. He stated that on December 9, 2012, he was in front of his house with defendant and his sister-in-law. He said that the police drove by, made a U-turn, and returned. They parked their car behind defendant's car and blocked the driveway. He denied that the police asked them about gang activity and stated that the police indicated that they had a complaint about loud music. He said that he did not feel like he could leave.

Defendant's counsel argued that a detention occurred prior to his consent to be searched. The People responded that defendant was not in his car and was free to walk away when the police first approached. The juvenile court denied defendant's motion to suppress.

Defendant's probation officer, Shannon Denny, testified. She stated that defendant was tested for drugs on December 10, 2012. Defendant tested presumptively

positive for THC. Defendant denied smoking marijuana and claimed that on December 4, 2012, he was around people who were smoking marijuana. Denny sent the urine test to the laboratory; it tested positive for marijuana.

At the end of the hearing, the juvenile court found both probation violations true beyond a reasonable doubt. The juvenile court detained defendant.

The court held defendant's dispositional hearing on April 17, 2013. The People told the court that defendant's remaining custody time was one year and one month. The court continued defendant as a ward of the court and committed him to six months in county jail with no credit for time served. The order stated that the court would vacate and dismiss defendant's juvenile proceedings upon his release from county jail, with his probation to be terminated unsuccessfully.

Defendant filed a timely notice of appeal.

#### **DISCUSSION**

Defendant was represented throughout the proceedings by counsel. We find no indication in the record that counsel provided ineffective assistance. We also conclude that substantial evidence supported the trial court's finding that defendant violated his probation. The disposition is authorized by law and, in the circumstances, does not constitute an abuse of discretion by the juvenile court. Our independent review of the

entire record reveals no arguable issues requiring further briefing. Accordingly, the dispositional order is affirmed.

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Brick, J.\*

We concur:

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Kline, P.J.

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Haerle, J.

\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.